

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114

ORDER NO. R5-2009-XXXX

**REQUIRING
DONNER SUMMIT PUBLIC UTILITIES DISTRICT
WASTEWATER TREATMENT PLANT
NEVADA COUNTY**

**TO CEASE AND DESIST
FROM DISCHARGING CONTRARY TO REQUIREMENTS**

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Water Board), finds that:

1. On 6 June 2002, the Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2002-0088, and Cease and Desist Order (CDO) No. R5-2002-0089 prescribing waste discharge requirements and compliance time schedules for Donner Summit Public Utility District (hereafter Discharger) Wastewater Treatment Plant. The Discharger discharges treated domestic wastewater to the South Yuba River, which is tributary to Yuba River. The regulated flow is 0.52 mgd.
2. WDRs Order No. R5-2002-0088 included limits for ammonia and nitrate as contained in Effluent Limitations section B.1, which stated in part as follows:

<u>Constituent</u>	<u>Units</u>	<u>30-Day Average</u>	<u>1-hour Average</u>
Ammonia	mg/l	Attachment C	Attachment D
Nitrate (as N)	mg/l	10	--
	lbs/day	43	--

3. CDO No. R5-2002-0089 included a schedule for achieving compliance with the effluent limitations for ammonia and nitrate by 1 April 2007.
4. On XX April 2009, the Regional Water Board adopted WDR Order No. R5-2009-XXXX rescinding Order No. R5-2002-0088 and CDO No. R5-2002-0089, and prescribing revised waste discharge requirements for the Facility. WDR Order No. R5-2009-XXXX contains requirements that read, in part, as follows:

“IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

A. Effluent Limitations – Discharge Point No. 001

The Discharger shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the attached MRP (Attachment E):

T
E
N
T
A
T
I
V
E
O
R
D
E
R

a. The Discharger shall maintain compliance with the effluent limitations specified in Table 6:

Parameter	Units	Effluent Limitations				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Copper, Total Recoverable	µg/L	1.5	--	3.1	--	--
Cyanide, Total Recoverable	µg/L	4.3	--	8.5	--	--
Zinc, Total Recoverable	µg/L	15	--	30	--	--
Aldrin	µg/L	--	--	--	--	ND
Alpha BHC	µg/L	--	--	--	--	ND
Silver	µg/L	--	--	--	--	0.23
Ammonia	mg/L	2.1	--	5.6	--	--
Nitrate	mg/L	18	--	--	--	--
	lbs/day ¹	78	--	--	--	--

1. Based upon regulated flow of 0.52 mgd.

- The Discharger has completed several efforts to attain compliance, including constructing improvements to the nitrification/denitrification activated sludge process to reduce pollutants in the discharge. The concentrations of ammonia and nitrate in the effluent have decreased since the implementation of the treatment plant improvements; however the Discharger is unable to consistently comply with the effluent limitation during periods of cold weather, partially due to slower microbial activity during those time periods.
- The effluent limitations specified in WDR Order No. R5-2009-XXXX for copper, cyanide, silver and zinc are based on implementation of the California Toxics Rule. The effluent limitations for aldrin, alpha BHC, and ammonia implement Basin Plan requirements. The final effluent limitations for ammonia, copper, cyanide, aldrin, alpha BHC, silver and zinc are new more-stringent limitations, which were not prescribed in previous WDR Order No. R5-2002-0088.
- Section 13301 of the California Water Code (CWC) states in part, "When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to such system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing, or in accordance with the procedure set forth in Section 13302."

8. In accordance with CWC section 13385(j)(3), the Regional Water Board finds that, based upon results of effluent monitoring, the Discharger is not able to consistently comply with the new or more stringent effluent limitations for ammonia, copper, cyanide, aldrin, alpha BHC, silver, and zinc. These limitations are new requirements that become applicable to the Order after the effective date of adoption of the waste discharge requirements, and after 1 July 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
9. The Regional Water Board finds that the Discharger is not able to consistently comply with the effluent limitations for nitrate. The schedules for completing the actions necessary to achieve full compliance exceed the adoption date of this Order. Additional time is necessary to complete site-specific studies and plant improvements that will improve the quality and consistency of the effluent and improve compliance with effluent limitations.
10. The Discharger is not able to immediately comply with the new effluent limitations for ammonia, copper, cyanide, aldrin, alpha BHC, nitrate, silver and zinc. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance. The Discharger has indicated in an Infeasibility Report submitted 30 September 2008, that additional time is required beyond the California Toxics Rule compliance date of 18 May 2010 to comply with the final effluent limitations for copper, cyanide, silver and zinc. In particular, the Discharger anticipates the need to implement public outreach education program, investigate receiving water concentrations in the South Yuba River, and, if required, incorporate additional process improvements for cyanide, aldrin, alpha BHC, and silver. The Discharger also anticipates the need to implement additional source controls, as well as evaluate the need for site-specific translators and/or water effect ratios for copper and zinc. Therefore, the Regional Water Board is providing up to 5 years from the adoption date of this Order for the Discharger to comply with the final effluent limitations for copper, cyanide, aldrin, alpha BHC, silver, and zinc.
11. This Order provides time schedules for the Discharger to develop, submit, and implement methods of compliance, including developing and implementing pollution prevention activities and constructing necessary treatment facilities to meet these new effluent limitations.
12. CWC section 13385(h) and (i) require the Regional Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j) exempts the discharge from mandatory minimum penalties *"where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all the [specified] requirements are met."*

T
E
N
T
A
T
I
V
E
O
R
D
E
R

13. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of the new or more stringent effluent limitations for ammonia, copper, cyanide, aldrin, alpha BHC, silver, and zinc in accordance with CWC section 13385(j)(3). CWC section 13385(j)(3) requires the preparation and implementation of a pollution prevention plan (PPP) pursuant to section 13263.3 of the CWC.
14. CDO No. R5-2002-0089 provided a five year mandatory minimum penalty exemption for nitrate. The final effluent limitations for nitrate in WDR Order No. R5- 2009-XXXX are not new or more stringent than the final effluent limitations in Order No. R5-2002-0088; therefore, this Order does not exempt the Discharger from mandatory minimum penalties for violations of the nitrate final effluent limitations.
15. Since the time schedules for completion of actions necessary to bring the waste discharge into compliance exceeds 1 year, this Order includes interim requirements and dates for their achievement. The time schedules do not exceed 5 years. This Order includes interim requirements and dates for their achievement. The time schedules do not exceed 5 years.
16. The Regional Water Board finds that the Discharger can undertake source control and treatment plant measures to maintain compliance with the interim limitations included in this Order. The compliance time schedule in this Order includes interim effluent limitations for ammonia, nitrate, copper, cyanide, aldrin, alpha BHC, silver, and zinc. Interim limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim limitations, however, establish an enforceable ceiling concentration until compliance with the effluent limitation can be achieved.

In developing the interim limitations, when there are ten sampling data points or more, sampling and laboratory variability is accounted for by establishing interim limits that are based on normally distributed data where 99.9% of the data points will lie within 3.3 standard deviations of the mean (*Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row*). When there are less than ten sampling data points available, the *Technical Support Document for Water Quality- Based Toxics Control* ((EPA/505/2-90-001), TSD) recommends a coefficient of variation of 0.6 be utilized as representative of wastewater effluent sampling. The TSD recognizes that a minimum of ten data points is necessary to conduct a valid statistical analysis. The multipliers contained in Table 5-2 of the TSD are used to determine a daily limitation based on a long-term average objective. In this case, the long-term average objective is to maintain, at a minimum, the current plant performance level. Thus, when there are less than ten sampling points for a constituent, interim limitations are based on 3.11 times the maximum observed effluent concentration to obtain the

daily interim limitation (TSD, Table 5-2). If the statistically-projected interim limitation is less than the maximum observed effluent concentration, the interim limitation is established as the maximum observed concentration.

17. Issuance of this Order is exempt from the provision of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations. This Order is not subject to the limitations of Government Code section 65962.5(c)(3) [Cortese List] on use of categorical exemptions because it does not involve the discharge of "hazardous" materials as used in that statute, but rather involves the discharge of domestic sewage. In addition, adoption of this Order does not have the potential to cause a significant impact on the environment (Title 14 CCR section 15061(b)(3)) as it is intended to enforce preexisting requirements to improve the quality of ongoing discharges that are part of the CEQA "baseline. This Order is also exempt from CEQA under Water Code Section 13389, since any adoption or modification of a NPDES Permit for an existing source is exempt and this order only serves to implement such a NPDES permit.
18. Any person adversely affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review this action. The petition must be received by the State Water Resources Control Board, Office of the Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100, within 30 days of the date on which this action was taken. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED THAT:

1. The Donner Summit Public Utilities District shall cease and desist from discharging and threatening to discharge contrary to Waste Discharge Requirement Order No. R5-2009-XXXX.
2. The Donner Summit Public Utilities District shall comply with the following time schedule to assure compliance with the ammonia, nitrate, copper, cyanide, aldrin, alpha BHC, silver, and zinc effluent limitations contained in Waste Discharge Requirement Order No. R5-2009-XXXX as described in the above Findings:

Task	Compliance Date
a. Implement Pollution Prevention Plan as specified in CWC Section 13263.3 for ammonia, nitrate, copper, cyanide, aldrin, alpha BHC, silver, and zinc	90 Days after the effective date of this Order
b. Progress Report ¹	1 January and 1 July of each year
c. Achieve Full Compliance with for ammonia, nitrate, copper, cyanide, aldrin, alpha BHC, silver, and zinc final effluent limitations	5 years after Adoption of this Order

¹ The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

3. The following interim effluent limitations shall be effective immediately, and shall remain in effect until **5 Years following the Adoption Date of this Order**, or when the Discharger is able to come into compliance with the final effluent limitation, whichever is sooner.

Parameter	Units	Effluent Limitations Maximum Daily
Ammonia	mg/L	39
Nitrate	mg/L	53
Copper, Total Recoverable	µg/L	24
Cyanide, Total Recoverable	µg/L	103
Zinc, Total Recoverable	µg/L	96
Aldrin	µg/L	0.016
Alpha BHC	µg/L	0.14
Silver	µg/L	0.81

4. For the compliance schedules required by this Order the Discharger shall submit to the Regional Water Board on or before each compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Regional Water Board by letter when it returns to compliance with the time schedule.
5. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.
6. Any person signing a document submitted under this Order shall make the following certification: *"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."*

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on **XX April 2009**.

PAMELA C. CREEDON, Executive Officer

T
E
N
T
A
T
I
V
E
O
R
D
E
R